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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11   REBECCA T. SHUMYE,   No. C-06-3322 MMC

12   Plaintiff,   **ORDER DENYING PLAINTIFF'S
                                              APPLICATION TO PROCEED IN FORMA**
13   v.   **PAUPERIS ON APPEAL**

14   SAMUEL D. FELLEKE,

15   Defendant
                                         /

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17   The Court is in receipt of plaintiff's Application To Proceed In Forma Pauperis, filed

18   April 8, 2008, by which plaintiff seeks permission to proceed in forma pauperis on appeal.

19   On June 13, 2006, the Court[1] granted plaintiff's application to proceed in forma

20   pauperis before the district court. On April 4, 2008, the Court filed an "Order: (1) Granting

21   in Part and Denying in Part Defendant's Motion for Summary Judgment [and] (2) Denying

22   Plaintiff's Motion for Summary Judgment" ("Order"). On April 8, 2008, plaintiff filed a

23   "Notice of Appeal" from the Order, as well as a "Petition for Review" of the Order.

24   A party who has been permitted to proceed in forma pauperis in a district court

25   action may proceed on appeal in forma pauperis, unless the district court "certifies that the

26   appeal is not taken in good faith." See Fed. R. App. P. 24(a)(3). Here, plaintiff seeks to

27   appeal an interlocutory order, i..e, an order that is nonappealable. See Simons v. United

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        [1]The matter was reassigned to the undersigned on April 7, 2008.

1 States, 497 F. 2d 1046, 1050 (9th Cir. 1974) (holding order denying motion for summary

2 judgment is "nonappealable order"); see also LaTrieste Restaurant & Cabaret, Inc. v.

3 Village of Port Chester, 96 F. 3d 598, 599 (2nd Cir. 1996) (stating general rule that order

4 granting partial summary judgment is nonappealable order). Consequently, the Court

5 "certifies that the appeal is not taken in good faith." See Fed. R. App. P. 24(a)(3).

6   Accordingly, plaintiff's application to proceed in forma pauperis on appeal is hereby

7 DENIED.

8   The Clerk is directed to serve a copy of this order on the Ninth Circuit Court of

9 Appeals.

10   **IT IS SO ORDERED.**

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12 Dated: April 14, 2008

13 MAXINE M. CHESNEY
   United States District Judge

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